

Amendment No. 1 to SB3098

Wilder
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 3098

House Bill No. 2769*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 17-4-101(b), is amended by deleting the subsection in its entirety.

SECTION 2. Tennessee Code Annotated, Section 17-4-102, is amended by deleting the section in its entirety and by substituting instead the following:

§ 17-4-102.

(a) There is established as a part of the judicial branch of the state a judicial selection commission. The commission shall be composed of seventeen (17) members, as follows:

(1) Eight (8) members shall be appointed by the speaker of the senate, as follows:

(A) Two (2) of such members shall be appointed from each of the state's three (3) grand divisions, and the remaining two (2) members shall be appointed at-large;

(B) At least six (6) of the members shall be lawyers, and at least one (1) of the members appointed at-large shall be a non-lawyer; and

(2) Eight (8) members shall be appointed by the speaker of the house of representatives, as follows:

(A) Two (2) of such members shall be appointed from each of the state's three (3) grand divisions, and the remaining two (2) members shall be appointed at-large;

(B) At least six (6) of the members shall be lawyers, and at least one (1) of the members appointed at-large shall be a non-lawyer; and

(3) One (1) member shall be jointly appointed at-large by the speaker of the senate and the speaker of the house of representatives, and such member shall be a non-lawyer.

(b) In making appointments to the commission, each speaker shall do so with a conscious intention of selecting a body that reflects a diverse mixture with respect to race, including the dominant ethnic minority population of this state, and gender.

(c) Effective September 1, 2008, the entire membership of the commission is hereby vacated and shall be replaced by new appointments made pursuant to this act. To stagger the terms of the newly appointed commission members, four (4) of the senate speaker's appointments shall be made for initial terms of two (2) years each, four (4) of the house speaker's appointments shall be made for initial terms of two (2) years each, and the speakers' joint appointment shall be made for an initial term of two (2) years. The remaining eight (8) appointments shall be made for initial terms of four (4) years each. Thereafter, the terms for all appointments shall be prescribed by §§ 17-4-106 and 17-4-107.

(d) In making lawyer appointments to the commission, each speaker shall receive, but shall not be bound by or restricted to, recommendations submitted by any interested bar group, including but not limited to the Tennessee bar association, the Tennessee association for justice, the Tennessee defense lawyers association, the Tennessee association of criminal defense lawyers, the Tennessee district attorney generals conference, the Tennessee public defenders conference, the

Tennessee lawyers association for women, and the Tennessee chapters and affiliates of the national bar association.

SECTION 3. Tennessee Code Annotated, Section 17-4-103, is amended by deleting the section in its entirety and by substituting instead the following:

§ 17-4-103.

(a) Each member of the judicial selection commission shall be a citizen of the United States, shall be at least thirty (30) years of age, and shall have been a citizen of this state for at least five (5) years immediately prior to appointment. Any member appointed from one (1) of the state's grand divisions shall have been a resident of that grand division for at least one (1) year immediately prior to appointment.

(b) Each lawyer member shall be a lawyer in good standing who is licensed to practice by the Tennessee supreme court.

SECTION 4. Tennessee Code Annotated, Section 17-4-104, is amended by adding the following language as a new, appropriately designated subsection:

(c) No member of the judicial selection commission shall be a lobbyist registered in this state. Any member of the commission becoming a registered lobbyist in this state ipso facto vacates the member's office as a member of the commission.

SECTION 5. Tennessee Code Annotated, Section 17-4-105, is amended by deleting the language "September 1, 1994" wherever it appears and by substituting instead the following:

September 1, 2008

SECTION 6. Tennessee Code Annotated, Section 17-4-106, is amended by deleting the section and by substituting instead the following:

§ 17-4-106.

(a) Except as otherwise provided in § 17-4-102(c) or § 17-4-107(a), the term of a commission member shall be four (4) years.

(b) A commission member shall be eligible for reappointment; however, no commission member shall serve more than two (2) terms, including any initial, partial or regular term.

SECTION 7. Tennessee Code Annotated, Section 17-4-107, is amended by designating the current language as subsection “(a)” and by adding the following new language, to be designated as subsection “(b)”:

(b) Any member of the judicial selection commission, who misses four (4) meetings of the commission during the member’s term of office, ipso facto vacates the member’s office as a member of the commission.

SECTION 8.

(a) Tennessee Code Annotated, Section 17-4-109(d), is amended by deleting the language “private or”.

(b) Tennessee Code Annotated, Section 17-4-109(d), is further amended by adding the following sentence to the end of the subsection:

However, all health, financial and criminal background investigations and inquiries of nominees shall be performed exclusively at the direction of the governor, acting pursuant to § 17-4-112(a)(2).

(c) Tennessee Code Annotated, Section 17-4-109(e), is amended by deleting the subsection in its entirety and by substituting instead the following:

(e)

(1) As soon as practicable and not later than sixty (60) days from receipt of written notice from the governor that a vacancy has occurred, the commission, in public meeting, by a majority vote shall select four (4) persons whom the commission deems best qualified and available to fill the vacancy and shall certify the names of the four (4) persons to the governor as nominees for the judicial vacancy. When selecting nominees in such public meeting, commission members shall vote

anonymously by written ballots; however, such ballots shall be collected, announced and tallied at the meeting by the presiding officer.

(2) If an incumbent judge fails to file a written declaration of candidacy as required by § 17-4-114 or § 17-4-115, or if the commission is reliably informed that a vacancy is impending for another reason, then the commission may meet, select such persons and certify the names of such nominees to the governor prior to the actual receipt of written notice from the governor that a vacancy has occurred.

(d) Tennessee Code Annotated, Section 17-4-109, is amended by adding the following language as a new subsection (g):

(g) All meetings of the judicial selection commission shall be open to the public and shall be conducted in accordance with the provisions of title 8, chapter 44, part 1.

SECTION 9. Tennessee Code Annotated, Section 17-4-112(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(a)

(1) If a vacancy occurs in the office of an appellate court on or after September 1, 2008, by death, resignation or otherwise, then the governor shall fill the vacancy by appointing one (1) of the four (4) nominees certified by the judicial selection commission, or the governor may require the commission to certify a second panel of four (4) additional nominees. Upon receiving the additional panel of nominees, the governor shall fill the vacancy by appointing one (1) of the eight (8) nominees certified by the judicial selection commission.

(2) Upon receiving the commission's panel or panels of nominees but prior to making the appointment pursuant to subdivision (a)(1), the

governor shall direct the Tennessee bureau of investigation or other appropriate agencies to perform health, financial and criminal background inquiries and investigations of the nominees, and the governor shall review and assess the results thereof.

SECTION 10. Tennessee Code Annotated, Sections 17-4-114(d)(2), 17-4-115(d)(2) and 17-4-116(c)(2), are each amended by deleting the following sentence:

The governor shall fill the vacancy from a group of three (3) nominees submitted by the judicial selection commission as provided in § 17-4-112.

and by substituting instead the following:

The governor shall fill the vacancy from nominees submitted by the judicial selection commission pursuant to the provisions of § 17-4-112(a).

SECTION 11. Tennessee Code Annotated, Section 4-29-229(a), is amended by deleting subdivisions (46) and (47).

SECTION 12. Notwithstanding Tennessee Code Annotated, Section 4-29-104, or any other law to the contrary, Tennessee Code Annotated, Title 4, Chapter 29, Part 2, is amended by adding the following language as a new, appropriately designated section:

§ 4-29-233.

(a) The following governmental entities shall terminate on June 30, 2012:

(1) Judicial selection commission, created by § 17-4-102;

and

(2) Judicial evaluation commission, created by § 17-4-201.

(b) Each department, commission, board, agency, or council of state government created during calendar year 2010 terminates on June 30, 2012.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished or restructured in accordance with this chapter.

SECTION 13. Sections 11 and 12 of this act shall take effect upon becoming a law, the public welfare requiring it; and the remaining provisions of this act shall take effect on September 1, 2008.